

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

FEDERAL TRADE COMMISSION,)	
)	
and)	
)	
STATE OF MISSOURI,)	
)	Case No. 4:18-CV-00128-DGK
Plaintiffs,)	
)	
v.)	
)	
NEXT-GEN, INC., et al.,)	
)	
Defendants.)	

**ORDER GRANTING TEMPORARY RECEIVER’S MOTION FOR FEES AND
EXPENSES FROM MAY 1, 2019, THROUGH JUNE 30, 2019**

Now before the Court is the Fourth Application by Eric Johnson, Receiver/Trustee, for Allowance of Compensation for Services Rendered and Reimbursement of Actual and Necessary Expenses for the Period May 1, 2019, through June, 30, 2019 (Doc. 311), as amended by the Receiver’s Supplemental Suggestions in Support of the Third, Fourth, and Fifth Applications for Allowance of Compensation for Services Rendered and Reimbursement of Actual and Necessary Expenses (Doc. 324). As amended,¹ the Fourth Application requests authorization to pay professional fees and reimburse expenses totaling \$135,187.86. The Fourth Application also requests authorization for the Temporary Receiver to pay such fees and expenses from receivership assets. No party has filed any response to the request.

After carefully considering the work performed, the motion is GRANTED AS AMENDED.

¹ The supplemental suggestions recalculate the requested fees for the third, fourth, and fifth applications in light of the Court’s September 30, 2019, order denying an increase in fee rates for attorneys.

On July 17, 2018, this Court entered a Temporary Restraining Order (“TRO”) (Doc. 98). Among other things, the TRO appointed Eric Johnson as Temporary Receiver of the Receivership Entities² in this case. *Id.* at 14. The TRO provided that the “Receiver and all personnel hired by the Receiver . . . are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, from the Assets now held by, in the possession or control of, or which may be received by, the Receivership Entities.” *Id.* at 24. The Court previously approved three applications for payment of fees and expenses to the Temporary Receiver and vendors totaling \$862,492.19.

The pending Fourth Application seeks: (1) \$52,020.00 in fees for the Temporary Receiver; (2) \$74,771.90 in fees, plus \$2,315.96 in expenses, for counsel Spencer Fane; and (3) \$4,680.00 in fees, plus \$1,400 in expenses, for computer services vendor UnitedLex. The total amount of fees and expenses requested is \$135,187.86. These requests cover payment for a variety of services and costs incurred by the Temporary Receiver and his retained professionals on behalf of the Receivership Entities, including, but not limited to: sale of the real property located at the Lake of the Ozarks, completion and vacation of the Skyline Properties and addressing data/property issues related to the same, continued work on the orderly termination of 401(k) plans, continued general oversight and wind-down of the Receivership Entities, and transfer of the real property in Cabo San Lucas to the Receivership Trust.

After reviewing the record, the Court finds the amount of fees and expenses requested is reasonable given the numerous tasks performed by the Temporary Receiver, the complexity of

² The TRO defines a Receivership Entity as any corporate Defendant, and “any other entity that has conducted any business related to the Defendants’ distribution of deceptive sweepstakes or other prize mailers, including receipt of Assets derived from any activity that is the subject of the Complaint in this matter, and that the Receiver determines is controlled or owned by any Defendant.” TRO at 4-5.

these tasks, and the lack of any objection. The Court also finds the hourly rates actually being paid are not unreasonable.

Accordingly, the motion (Doc. 311), as amended by the supplemental suggestions (Doc. 324), is GRANTED. It is ORDERED that the Temporary Receiver may pay the following amounts from receivership assets:

- (1) \$52,020.00 in fees for the Temporary Receiver;
- (2) \$74,771.90 in fees, plus \$2,315.96 in expenses, for Spencer Fane; and
- (3) \$4,680.00 in fees, plus \$1,400 in expenses, for UnitedLex.

IT IS FURTHER ORDERED that the Temporary Receiver is authorized to transfer funds to the Temporary Receiver's disbursement account to cover these payments.

IT IS SO ORDERED.

Date: October 24, 2019

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT